IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIRST DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MR JUSTICE L.NARASIMHA REDDY**

**WRIT PETITION NO : 2974 of 2005**

Between:

P.Rahmath Khan, S/o.P.Mohammad Khan,
R/o.Manchalakatta village, Gadivemula Mandal, Kurnool District.

**PETITIONER**

AND

1 The Joint Collector, Kurnool District.
2 The Revenue Divisional officer, Nandyal, Kurnool

District.
3 The Mandal Revenue officer, Gadivemula

Mandal, Kurnool District

**.....RESPONDENTS**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the action of the 2nd respondent in issuing the proceedings Rc.E.1509/2004 dt.07-02-2005 as illegal, arbitrary, and violative of principles of natural justice and also against the provisions of Control order 2001 and consequently direct the respondents to restore the authorisation of the petitioner by suspending impugned proceedings pending the

appeal before the 1st Respondent and pass such other order or orders as this Hon'ble court may deem fit and proper in the circumstances of the case.

**Counsel for the Petitioner:MR.K.V.RAGHU VEER**

**Counsel for the Respondent No.: GP FOR CIVIL SUPPLIES**

**The Court at the admission made the following :**

**O R D E R**

Petitioner is a fair price shop dealer at Manchalakatta Village, Gadivemula Mandal, Kurnool District. He was issued a show cause notice dated 16.1.2005 by the 2nd respondent, pointing out certain

irregularities, said to have been committed by him. The petitioner submitted his explanation on 28.1.2005, denying the allegations. On a consideration of the same, the 2nd respondent passed an order dated 7.2.2005, suspending the authorization of the petitioner, pending enquiry. Petitioner preferred an appeal before the 1st respondent and filed an application for stay. The grievance of the petitioner is that the 1st respondent has rejected the application for stay, through his order dated 10.2.2005. Hence this writ petition.

2. Heard the learned counsel for the petitioner and the Government Pleader for Civil Supplies.

3. Though the occasion for filing of this writ petition, is the denial of the stay by the appellate authority, the matter is argued at length on merits.

4. Under Clause 5(4) of A.P. State Public Distribution System (Control) Order 2001, the appointing authority is vested with the power to suspend or cancel the authorization, as a measure of penalty. Suspension pending enquiry is not specifically provided for under the Control Orders of 2001, but it is an implied power. But, by its very nature, it is not required to be preceded by any notice or enquiry.

5. The 2nd respondent issued show cause notice dated 16.1.2005 and directed the petitioner to explain as to why the authorization shall not be suspended. Petitioner submitted his explanation denying the allegations. If the explanation offered by the petitioner is not satisfactory, the 2nd respondent is entitled to suspend the authorization as a substantive penalty, which is required to be for a

specific period. Suspension as a measure of penalty, cannot be for an indefinite period.

6. For reasons best known to him, the 2nd respondent has chosen to suspend the authorization of the petitioner pending enquiry, though show cause notice was issued and explanation was submitted. Therefore, the suspension has to be treated as a substantive penalty. Consequently, the 2nd respondent is required to indicate the period, for which the said suspension shall be in force, as a measure of substantive penalty.

7 . Therefore, the writ petition is disposed of directing that the 2nd respondent shall pass an appropriate order within two weeks from the date receipt of a copy of this order, indicating the period, for which the suspension as a penalty, against the petitioner, shall be in force. If no such period is indicated, suspension shall be in force for a period of two months from 7.2.2005 and thereafter, the petitioner shall be entitled to function as a dealer.

8. In view of the measure indicated above, the appeal pending before the 1st respondent becomes infructuous and it shall not be necessary for him to pass any orders.

9. No order as to costs.

AVS ----------

21.02.2005

Note:

1. Issue C.C. in three days.

2. L.R. copy to be marked.

B/o

To

1. One fair copy to Hon'ble Sri Justice L.Narasimha Reddy (for His Lordship's kind perusal)

2 The Joint Collector, Kurnool District.
3 The Revenue Divisional officer, Nandyal, Kurnool

District.
4 The Mandal Revenue officer, Gadivemula

Mandal, Kurnool District

5.Two C.Cs. to G.P. for Civil Supplies, High Court of

A.P., Hyderabad (out).

6. 8 L.R. copies.

7. The Union Secretary, Union of India, Ministry of Law, Justice and Company Affairs, New Delhi.

8. the Secretary, A.P. Advocates' Association, High Court of A.P. (out).

4. Two C.D. copies.